

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA § CRIMINAL CASE NO.
 §
v. § 1:16-cr-00237-RWS-JSA
 §
JAMES G. MALONEY, §
 §
Defendant. §

DEFENDANT'S MOTION TO CONTINUE TRIAL

Defendant James G. Maloney files this Motion to Continue Trial, respectfully moving the Court to continue the trial specially set in this action to commence on May 22, 2023, *see* Dkt. # 163, to commence on a date after November 1, 2023, or, at minimum, to commence the second week of June, 2023.

As counsel for Dr. Maloney have shown in their petitions for leaves of absence pursuant to LCrR 57.1, two of Dr. Maloney counsel are also counsel for one of the defendants in the criminal antitrust case of *United States v. Patel et al.*, case # 3:21-cr-00220-VAB, in the United States District Court for the District of Connecticut (*Patel* case), the Honorable Victor A. Bolden, United States District Judge, presiding. *See* Dkt. # 153 & 154, p. 1. Jury selection in the *Patel* case is set to begin on Monday, March 27, 2023. *Id.* at 2.

On March 22, 2023, the Court held a pretrial hearing in the *Patel* case. During the hearing, the Court in the *Patel* case stated that it would not be conducting the trial on April 6, 7, 12, 13, and 14, or on May 1. The Court furthermore stated that it planned to question the jury pool concerning potential jurors' hardships if they are required to serve through Friday, May 19, 2023.

The potential that the *Patel* case may last until the Friday prior to the start of the trial in this action warrants a continuance of the trial in this action. Dr. Maloney should be afforded adequate time to prepare for trial with his counsel. *See United States v. Jeri*, 869 F.3d 1247, 1257 (11th Cir. 2017). Dr. Maloney needs more than merely a few days to meet with his counsel and to prepare for trial.

Two of Dr. Maloney's counsel are also counsel for one of the defendants in the action of *United States v. Lewis et al.*, case # 1:21-cr-00231-TCB, in the United States District Court for the Northern District of Georgia (*Lewis* case), before the Honorable Timothy C. Batten, Sr., Chief United States District Judge, a prosecution relating to syndicated conservation easements. Trial in the *Lewis* case is currently set to begin on July 12, 2023. The government has estimated 30 business days for its presentation of its case-in-chief in the *Lewis* case. Furthermore, two of the seven defendants in the *Lewis* case have stated that the presentation of their defense will

take six weeks. If these estimates prove to be accurate, the trial in the *Lewis* case could last until mid-October, 2023.

Given the potential length of the *Patel* case and the timing and anticipated length of the *Lewis* case, Dr. Maloney respectfully requests that the Court continue the trial in this action until November of 2023 or thereafter. At minimum, Dr. Maloney asks for a short continuance of the trial to the second or third week of June, 2023.

Based upon the grounds set forth herein, Defendant James G. Maloney requests that the Court grant his Motion to Continue Trial, and continue the trial specially set to commence in this action on May 22, 2023, until a date after November 1, 2023, or in the alternative, until the second week of June, 2023.

Respectfully submitted, this 24th day of March, 2023.

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CERTIFICATION

The undersigned certifies, pursuant to N.D.Ga.L.Civ.R. 7.1D, that the foregoing document has been prepared with one of the font and point selections (Book Antigua, 13 point) approved by the Court in N.D.Ga.L.Civ.R. 5.1B.

GILLEN WITHERS & LAKE, LLC

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Counsel for Dr. James G. Maloney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 24th day of March, 2023, the undersigned served the foregoing document by filing the document via the Court's Case Management/Electronic Case Filing (CM/ECF) system, which will automatically serve notice of such filing on the following attorneys of record:

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